



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1609

by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

750 ILCS 5/606

from Ch. 40, par. 606

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that in a hearing to determine custody, a false allegation that the child who is the subject of the hearing is an abused child, within the meaning of the Abused and Neglected Child Reporting Act, operates as an absolute bar to a parent's right to make decisions regarding the child's upbringing. Defines "false allegation". Provides that the failure to report alleged abuse contemporaneously with the alleged abuse to local law enforcement officials or the Department of Children and Family Services shall be deemed conclusive evidence of the falsity of the claim. Provides that a parent barred from making decisions regarding the child's upbringing is entitled to reasonable parenting time, not inconsistent with protecting the child. Provides that a second false allegation by the same parent operates to permanently bar parenting time with the child.

LRB097 08472 AJO 48599 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Section 606 as follows:

6 (750 ILCS 5/606) (from Ch. 40, par. 606)

7 Sec. 606. Hearings.

8 (a) Custody proceedings shall receive priority in being set
9 for hearing.

10 (b) The court may tax as costs the payment of necessary
11 travel and other expenses incurred by any person whose presence
12 at the hearing the court deems necessary to determine the best
13 interest of the child.

14 (c) The court, without a jury, shall determine questions of
15 law and fact. If it finds that a public hearing may be
16 detrimental to the child's best interest, the court may exclude
17 the public from a custody hearing, but may admit any person who
18 has a direct and legitimate interest in the particular case or
19 a legitimate educational or research interest in the work of
20 the court.

21 (d) If the court finds it necessary, in order to protect
22 the child's welfare, that the record of any interview, report,
23 investigation, or testimony in a custody proceeding be kept

1 secret, the court may make an appropriate order sealing the
2 record.

3 (e) Previous statements made by the child relating to any
4 allegations that the child is an abused or neglected child
5 within the meaning of the Abused and Neglected Child Reporting
6 Act, or an abused or neglected minor within the meaning of the
7 Juvenile Court Act of 1987, shall be admissible in evidence in
8 a hearing concerning custody of or visitation with the child.
9 No such statement, however, if uncorroborated and not subject
10 to cross-examination, shall be sufficient in itself to support
11 a finding of abuse or neglect.

12 (f) False allegations that the child is an abused or
13 neglected child within the meaning of the Abused and Neglected
14 Child Reporting Act, in a proceeding to determine custody,
15 shall operate as an absolute bar to a parent's right to make
16 decisions regarding the child's upbringing, including but not
17 limited to the child's education, religious training, and
18 medical treatment. For the purpose of this Section, a "false
19 allegation" is one that is either known to be false or that a
20 reasonable person should have known to be false. "False
21 allegation" includes, but is not limited to, a finding by the
22 Department of Children and Family Services that the alleged
23 abuse was "not substantiated", or any disposition under a lower
24 standard of evidence (such as "unfounded", or "closed without
25 investigation"). The failure to report the alleged abuse
26 contemporaneously with the act alleged to local law enforcement

1 officials or the Department of Children and Family Services
2 shall be deemed conclusive evidence of the falsity of the claim
3 so made. A parent barred under this subsection from making
4 decisions regarding the child's upbringing, shall nonetheless
5 be entitled to reasonable parenting time not inconsistent with
6 protecting the child from further false abuse allegations, the
7 terms of which shall be defined with specificity by the court
8 along with procedures to prevent further false reports. A
9 second false allegation as defined, notwithstanding the
10 court's protective procedures, by the same parent, shall
11 operate to permanently bar parenting time with the child so
12 involved by that parent, in addition to the previous sanctions
13 imposed.

14 (Source: P.A. 87-1081.)